

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL J. PORTER,	:	Case No. 3:06 cv 1608
	:	
Petitioner,	:	JUDGE KATHLEEN O'MALLEY
	:	
v.	:	
	:	
STUART HUDSON,	:	<u>ORDER</u>
	:	
Respondent.	:	

On May 7, 2008, the Sixth Circuit instructed this Court to clarify its November 8, 2007 non-document order in this matter. This brief order resolves the ambiguity of that prior non-document order.

On October 24, 2007, Michael Porter (“Petitioner”) filed a notice of appeal (Doc. 25) from the Court’s July 16, 2007 order (Doc. 23), and its judgment entry of the same date (Doc. 24). That filing was late. With his notice of appeal, however, Petitioner also filed a *Motion for Leave to File Notice of Appeal and For Service of Judgment Entry* (Doc. 26). The Court’s November 8, 2007 order granted Petitioner’s request for service of the entry of judgment in this matter, but denied his request to file his notice of appeal. Though it was unclear under which rule the petitioner’s motion was raised, because the motion was filed outside the time for filing a motion for an extension of time to file an appeal under Federal Rule of Appellate Procedure 4(a)(5), the Court treated the motion as a request to reopen the appeal period under Appellate Procedure 4(a)(6). The Court, however, found that service was properly effectuated and, therefore, decided that Petitioner’s motion was not well-taken. See Fed R. App. Proc. 4(a)(6)(A). Thus, The Court’s non-document entry of November 8, 2007 resolved what this Court construed as a motion to reopen an appeal under Appellate Procedure 4(a)(6).

IT IS SO ORDERED.

s/Kathleen M. O'Malley

**KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE**

Dated: May 20, 2008